

1 HONORABLE RICHARD A. JONES  
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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 T-MOBILE USA, INC.,

11 Plaintiff,

12 v.

13 HUAWEI DEVICE USA, INC., et al.,

14 Defendants.

15 CASE NO. C14-1351RAJ

16 MINUTE ORDER

17 The following minute order is made by the direction of the Court, the Honorable  
18 Richard A. Jones:

19 The Court held a telephonic conference addressing numerous issues raised by the  
20 Parties' discovery motions on July 28, 2016. Having heard from the Parties and having  
21 reviewed their submissions, the Court rules as follows:

22 1. The Court **DENIES** Defendants Huawei USA, Inc. and Huawei Technologies  
23 Co., Ltd.'s (collectively, "Huawei") Motion for Sanctions. Dkt. # 130.  
24 a. To the extent Huawei requests an order prohibiting Plaintiff T-Mobile  
25 USA, Inc. ("T-Mobile") from presenting evidence derived from the  
26 logical image or forensic toolkit, it may present a motion *in limine*  
27 addressing that issue at the appropriate time.  
28 2. The Court **GRANTS** Huawei's Motion for Leave to File Supplemental Brief.  
29 Dkt. # 149.

1       3. The Court **GRANTS** in part and **DENIES** in part T-Mobile's Motion to  
2       Compel. Dkt. # 132 & 138.

3       a. Huawei is ordered to produce or supplement their interrogatory  
4       responses regarding information about the sales of Huawei's devices  
5       and consumer returns of the products.

6       b. T-Mobile's request to compel production of TMSS information is  
7       denied.

8       c. Huawei is ordered to permit another inspection of its other testing  
9       robots, specifically the OptoFidelity and Putian robots. Huawei must  
10      also make the source code or software for those robots available to  
11      T-Mobile.

12      d. Huawei is ordered to produce sequence files associated with the  
13      OptoFidelity and Putian robots. The Parties must meet and confer to  
14      discuss whether similar files have been produced relating to the  
15      xDeviceRobot and where those files may be located in Huawei's  
16      productions.

17      4. The Court **GRANTS** Huawei's Motion to Compel. Dkt. # 134.

18      a. T-Mobile must designate another witness pursuant to Federal Rule of  
19      Civil Procedure 30(b)(6) to testify as to any communications T-Mobile  
20      has had with OptoFidelity and Deutsche Telekom AG regarding the  
21      allegations in this case.

22      b. T-Mobile must also disclose the identities of any other third parties it  
23      has communicated with regarding the subject matter of this case. The  
24      Parties should then meet and confer to discuss whether an additional  
25      Rule 30(b)(6) witness is necessary.

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28      MINUTE ORDER - 2

c. T-Mobile must supplement its responses to Huawei's interrogatory nos. 2, 7, 8, and 9. For its supplemental response to Huawei's interrogatory no. 9, T-Mobile need only supplement its responses for the first 17 denied requests for admission.

5. The Court **GRANTS** in part, **DENIES** in part, and **delays ruling on** T-Mobile's second Motion to Compel. Dkt. # 179 & 183.

a. Huawei must make the 22 contested documents available to the Court for *in camera* review within **seven (7) business days of this Order**.

b. T-Mobile’s request that the Court find that Huawei waived privilege as to the entire subject matter of its investigation is **denied**.

- c. Emails between Huawei and third parties, including T-Mobile, are not protected by privileged. Specifically, documents with Privilege ID 55-61, and 625 are not privileged. Beyond that, to the extent privilege existed, Huawei waived privilege for those documents.

d. The Court will address Huawei’s claims for privilege as to the other documents that do not have a third party addressee. Those documents appear to be Privilege ID 36, 204, 211, 236-240, 245, and 249-253.

6. The Court **GRANTS** the Parties' Motions to Seal. Dkt. # 136, 163, 181, 190.

DATED this 28th day of July, 2016.

WILLIAM M. McCOOL,  
Clerk of the Court

/s/ Victoria Erickson  
Deputy Clerk to Hon. Richard A. Jones